IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Amendment Appl. No. 9619 of 2006

IN
Arbitration Application No. 09 of 2005

M/s Rapti Contractors
Near Head Post Office
Mooldhar, New Tehri Town
Uttaranchal
Present Address:- C/o Sunil Kumar
205- Maktulpuri, Roorkee
District Haridwar (U.A.)
Through Shri Y.P. Singh
Partner of said firm ……Applicant.

Versus

1. The General Manager (S.H.P.)
   Uttaranchal Jal Vidyut Nigam Ltd.
   T-30-32, Yamuna Colony
   Dehradun, Uttaranchal.
2. The Chairman and Chief Managing Director
   Uttranchal Jal Vidyut Nigam Ltd.
   Ujjwal Bhawan, Maharani Bagh
   General Mahadev Singh Marg
   Dehradun (U.A.)
3, The Executive Engineer
   Uttraranchal Jal Vidyut Nigam Ltd.
   (Small Hydro Projects) Maneri
   Uttarkashi(U.A.) ….Respondents.

Shri S.K. Jain, learned counsel for the applicant
Shri Vinay Kumar, learned counsel for the respondents.

Hon'ble Prafulla C. Pant, J.

Heard learned counsel for the parties.

2. This is application for amendment in petition (No. 09 of 2005), moved under Section 11 of the

Arbitration and Conciliation Act, 1996. The perusal of the record shows that said petition was finally disposed of by this Court on 23.12.2005. As such, the amendment application No. 9619 of 2005 seeks to amend the disposed of petition. By moving this application, the petitioner has sought to add new respondent 'Uttaranchal Jal Vidyut Nigam Ltd.' formally known as U.P. Jal Vidyut Nigam Ltd. through its Chairman and Chief managing Director.

3. Had there been U.P. Jal Vidyut Nigam Ltd. a party in the arbitration petition, this Court would have allowed the application to make clerical amendment in the address of the party in the decided petition. But to add a new party in a decided petition is not permissible under any law.

4. Learned counsel for the petitioner drew attention of this Court to the principle of law laid down in ***Harbans Lal Tauh Vs. Alolahabad Bank 1982 (8) A.L.R. 4.*** In said case, Allahabad High Court permitted to amend the plaint in a decided case to correct the house number. On going through said judgment, it is clear that the description of property was already there and the amendment allowed was nothing more than a clerical correction. In the present case, it is not so. Had the petitioner/applicant sought a clerical correction in the address of the respondent, the argument of the learned counsel for the petitioner could have been accepted. As such, above referred case law does not help the petitioner as no clerical error is sought to be made in the petition. Similarly, the principle of law in ***Narhari Balku Vs. Hanmanta***

Timma AIR 2004 Bombay 342 is also distinguishable as in said case the survey number was permitted to be corrected in the plaint. On behalf of the petitioner, my attention was also drawn to ***M/s I.T.I. Ltd. Vs. M/s Siemens Public Communications Network Ltd. AIR 2002 Supreme Court 2308,*** which only settles the issue to what extent the provision of Code of Civil Procedure, 1908, are applicable in Arbitration and Conciliation Act, 1996.

5. This is Court is of the definite opinion that after the case is decided, a new party cannot be permitted to be impleaded in it. Therefore, the application No. 9619 of 2006 for amendment in the arbitration petition No. 09 of 2005 is dismissed with the observation that since the General Manager, Chairman and Executive Engineer of Uttaranchal Jal Vidyut Nigam, are already parties in the petition, interest of the Uttaranchal Jal Vidyut Nigam is represented through them in the petition and the Arbitrator may take not of the same.

(Prafulla. C. Pant, J.)

Dt: 07.08.2006
Sweta